

No. 236/Drainage/Kaithal.—Whereas the Governor of Haryana is satisfied that the land specified below is needed urgently by Government, at public expenses, namely, for the construction of Pundri Drain No. II, RD 56583 to RD 86850 in village Saran, Deoban, Kheri Sheru, Harsaula and Sista Sismore, tehsil Kaithal and district Kurukshetra, for which a notification has been issued under section 4 and sub-section (4) of section 17 read with clause (c) of sub-section (2) of section 17 of the said Act and published,—vide Haryana, Government notification No. 234/Drainage/Kaithal, dated the 28th February, 1978, in *Haryana Government Gazette*, Part I, it is hereby declared that the land described in the specification below is required urgently for the above purpose.

This declaration is made under the provisions of section 6 of the Land Acquisition Act, 1894, for the information of all to whom it may concern.

The plans of the land may be inspected in the offices of the Land Acquisition Collector, Public Works, Department, Irrigation and Power, Ambala and the Executive Engineer, Drainage Division, Kaithal.

SPECIFICATION

District	Tehsil	Village	Area in Acres	Boundary/Khasra Nos.
Kurukshetra	Kaithal	Saran	13.66	A strip of land 30,267 ft. in length and varying in width lying generally in the direction of North-East to South-West as demarcated at site and as shown on the Index Plan passing through the Part Field Nos.
				19
				16, 17, 23, 24, 25
				28
				14, 15, 16, 17, 23, 24, 25
				29
				2, 3, 4, 5, 7, 8, 9, 10, 11, 12, 13, 18, 19,
				29
				20, 21 22
				31
				2, 3, 4, 7, 8, 9, 10, 11, 12, 14, 19,
				31 32
				20, 21, 22 25
				38
				5, 6, 7, 14, 15, 16, 17, 24, 25
				39
				1, 2, 9, 10, 11, 12, 19, 20, 21
				40
				1, 10
				41
				3, 4, 5, 6, 7, 8, 12, 13, 14, 15, 17, 18,

District	Tehsil	Village	Area in Acres	Boundary/Khasra Nos.
Kurukshetra	Kaithal	Saran— <i>concl'd</i>		41 19, 21, 22, 23 44 14, 15, 16, 17, 18, 19, 22, 23, 24, 25 45 4, 5, 6, 7, 8, 9, 11, 12, 13, 14, 15, 17 45 18, 19, 20, 21, 22, 23/1, 16 46 1, 2, 3, 4, 8, 9, 10, 11, 12 50 2, 3, 4, 5
Do	Do	Deoban	5.44	28 3, 4, 5, 6, 7, 8, 9, 11, 12, 13, 14, 15, 16, 28 17, 18, 19, 20, 21, 22, 23 29 16, 25 30 5 31 1 45 12, 13, 18, 19, 22, 23 46 2 27 1, 2, 10 17 4, 5, 6, 7, 8, 12, 13, 14, 15, 17, 18, 19, 17 21, 22, 23 12 11, 12, 19, 20, 21, 22, 23 29 3, 4, 5, 7, 8, 9, 12, 13 28 1, 2, 3, 4, 5 27 1, 2, 3, 4
Do	Do	Kheri Sheru	7.90	

District	Tehsil	Village	Area in Acres	Boundary/Khasra Nos.
Kurukshetra	Kaithal	Kheri Sheru— concl'd		<div>16</div> <div>15, 16, 17, 18, 23, 24, 25</div> <div>17</div> <div>3, 4, 5, 6, 7, 8, 9, 10, 11, 12/1, 12/2,</div> <div>17</div> <div>18</div> <div>13, 14, 20, 19</div> <div>1, 2</div> <div>9</div> <div>12, 13, 18, 19, 20, 21, 22</div>
Do	Do	Harsaula	15.45	<div>152</div> <div>3, 4, 7, 8, 9, 13</div> <div>146</div> <div>5, 6/1, 6/2, 14, 15, 16, 17, 23, 24, 25</div> <div>145</div> <div>6, 7, 8/1, 8/2, 9, 10, 11, 1, 2, 3, 4, 5</div> <div>144</div> <div>1, 2, 3, 4, 5, 6, 7, 8, 9, 10</div> <div>143</div> <div>3, 4, 5, 7, 8, 9, 10, 1, 2, 6</div> <div>134</div> <div>16, 17, 23, 24, 25</div> <div>135</div> <div>3, 4, 5, 6, 7, 8, 9, 11, 12, 13, 14, 18, 19,</div> <div>135</div> <div>136</div> <div>120</div> <div>20, 21</div> <div>1</div> <div>24, 25</div> <div>119</div> <div>12, 13, 14, 15, 16, 17, 18, 19, 20, 21,</div> <div>119</div> <div>22/1, 22/2, 22/3, 6, 7, 23</div> <div>118</div> <div>6, 7, 8, 9, 10, 11, 12, 13, 14, 15</div> <div>117</div> <div>2, 3/1, 3/2, 4, 5, 6, 7/1, 7/2, 8, 9/1,</div> <div>117</div> <div>9/2, 10/1, 10/2, 11, 12</div> <div>116</div> <div>1, 2, 3, 4, 5, 6, 7, 8, 9, 10</div>

District	Tehsil	Village	Area in Acres	Boundary/Khasra Nos.	
Kurukshetra	Kaithal	Sisla Sismore	4.75	63	40
				4, 5, 6, 7	25
				61	
				1/1, 1/2, 2, 3	
				62	
				1, 2, 3, 4, 5, 6, 7, 8, 9, 10	
				42	
				4, 5, 6, 7, 8, 13, 14, 15, 16, 17, 18,	
				42	
				21, 22, 23/1, 23/2, 24	
				38	37
				25	21, 22
					1, 2, 10

All Killas in Parts

No. 237/Drainage/Karnal.—Whereas the Governor of Haryana is satisfied that the land specified below is needed urgently by Government, at public expense, namely, for the Constructing Mandi Link Drain from RD 0 to RD 4000 in villages Puthar and Mandi in tehsil Panipat, district Karnal, for which a notification has been issued under section 4 and sub-section (4) of section 17 read with clause (c) of Sub-section (2) of section 17 of the said Act and published,—vide Haryana Government notification No. 235/Drainage/Karnal, dated the 28th February, 1978, in *Haryana Government Gazette*, Part I, it is hereby declared that the land described in the specification below is required urgently for the above purpose.

This declaration is made under the provisions of sections 6 of the Land Acquisition Act, 1894, for the information of all to whom it may concern.

The plans of the land may be inspected in the offices of the Land Acquisition Collector, Public Works Department, Irrigation and power, Ambala and the Executive Engineer, Drainage Division Karnal.

SPECIFICATION

District	Tehsil	Village	Area in Acres	Boundary/Khasra Nos.	
Karnal	Panipat	Puthar	3.60	A strip of land 4,000 feet in length varying in widths generally lying in the direction from East to West as shown on the Index Plan as demarcated at site.	
				13	12
				16, 17, 18, 19, 20, 21, 22, 23, 24, 25,	21
				13	14
				23, 24, 25	16, 17/1, 17/2, 18, 19, 20/1, 20/2,

District	Tehsil	Village	Area in Acres	Boundary/Khasra Nos.
Karnal	Panipat	Puttar— concl'd	3.60— concl'd	14 20/3, 21, 22/1, 22/2, 23, 24, 25 15 16, 17, 18, 19/1, 19/2, 20, 21, 22, 23/1, 24, 25 16 516 16, 17/1, 25/2 3 496, 493, 173
Karnal	Panipat	Mandi	0.37	157 158 19, 20/1, 20/2, 21, 22/1, 22/2 16

By the Order of the Governor of Haryana.

OM P. SIKRI,
Superintending Engineer,
Drainage Circle, Karnal.

The 23rd February, 1978

No. 2105/68-L. —Whereas it appears to the Governor of Haryana that land specified below is needed by the Government, at public expense, for a public purpose, namely, for the construction of Dawana Distributary from Km. 5.790 to Km. 14.700 in villages Berli Khurd, Chauki, Nangal Mundi, Aulant and Buroli of tehsil Rewari, district Mahendragarh, it is hereby notified that the land in the locality below is to be a required for the above purpose.

This notification is made under the provisions of section 4 of the Land Acquisition Act, 1894, for the information of all to whom it may concern.

In exercise of the powers conferred by the aforesaid section, the Governor of Haryana hereby authorises the Officers of Irrigation Department for the time being engaged in the undertaking along with their servants, workmen, etc., to enter upon and survey land in the locality and do all other acts required or permitted by the section.

Further, whereas the Governor of Haryana is statified that the land is required for the construction of Dawana Distributary which is of very urgent importance within the meaning of clause (c) of sub-section (2) of section 17 of the said Act and whereas the Governor of Haryana is of the opinion that the provisions of the sub-section (2) of the said section are thus applicable, it is hereby directed under sub-section (4) of section 17 of the said Act that the provisions of section 5-A of the said Act shall not apply in regard to this acquisition.

SPECIFICATIONS

District	Tehsil	Village	Hadbast No.	Area in Acres/Hectares	Boundaries
A strip of land measuring 8.910 Kms. in length and varying in widths comprising of Killa numbers as below :—					
				Rectangle No.	Killa Nos.
Mahendra- garh	Rewari	Berli Khurd	93	8.150/3.298	65 1 & 16
					57 25 & 16
					66 5, 4, 7, 6, 14, 15, 18, 17, 16, 22, 23 & 24

District	Tehsil	Village	Hadbast No.	Area in Acres/Hectares		Boundaries
Mahendragarh	Rewari	Berli Khurd— <i>concl'd</i>	93— <i>concl'd</i>	8.150/ 3.298— <i>concl'd</i>	71	1, 2, 3, 4, 10, 8, 9, 11, 12, 13, 20, 21, 19 & 22
					70	24, 25, 16, 21, 22 & 23
					80	1
					81	5, 4, 3, 2 & 1
					82	1, 2, 3, 4 & 5
					69	21, 22, 23, 24 & 25
					42	21
					53	1 & 10
					43	25, 24, 23, 22, 21
					52	5, 4, 3, 2 & 1
Do	Do	Chauki	248	9.422/3.813	44	25, 24, 23, 22 & 21
					51	5, 4, 3, 2 & 1
					50	5, 4, 3, 2 & 1
					45	25, 24, 23, 22 & 21
					46	25, 24, 23, 22 & 21
					109	5, 4, 3, 2 & 1
					108	5, 4, 3, 2 & 1
					101	21, 22 & 23
					102	25, 24, 23, 22 & 21
					107	5, 4, 3, 2 & 1
Do	Do	Nangal Mundi	78	8.604/3.482	104	25 & 24
					106	5, 4, 6, 7, 8, 14, 13, 12, 18, 19, 11, 20, 22 & 21
					16	21, 25 & 24
					37	1
					36	7, 5, 4, 6, 14, 8, 13, 23, 12, 18, 19, 20, 21 & 22
					35	25
					39	1
					40	5, 4, 6, 7, 8, 13, 14, 12, 18, 19, 23, 20, 21 & 22
					41	25
					54	1
Do	Do	Aulant	77	14.391/5.824	53	5, 4, 6, 7, 8, 13, 14, 12, 18, 19, 23, 20, 21 & 22
					52	25
					59	1
					60	5, 4, 6, 7, 8, 13, 14, 12, 18, 19, 23, 20, 21 & 22
					61	25
					65	1
					64	5, 4, 6, 7, 8, 14 & 13

Distriet	Tehsil	Village	Hadbast No.	Area in Acres/Hectares	Boundaries
Mahendragarh— <i>concl'd</i>	Rewari— <i>concl'd</i>	Buroli	76	33.232/13.448	40 13, 12, 18, 19, 23, 20, 21 & 22
					39 25
					44 1
					45 5, 4, 6, 7, 8, 15, 13, 17, 18, 22, 23 & 24
					68 2, 3, 8, 9, 12, 11, 19, 21 & 20
					67 25
					77 1
					78 5, 4, 6, 7, 14, 15, 13, 17, 18, 23, 24 & 22
					100 2, 3, 4, 10, 9, 8, 11, 12, 13, 19, 20 & 21
					99 16, 24 & 25
					110 1 & 10
					111 5, 4, 3, 7, 6, 8, 14, 13, 12, 18, 9, 17, 19, 11, 23, 20, 22 & 21
					130 1 & 10
					112 25
					129 5, 4, 6, 7, 15, 14, 13, 21, 17, 18, 19, 23 & 22
					144 1
					145 5, 4, 3, 2 & 1
					128 25, 24, 23, 22 & 21
					146 5, 4 & 3
					127 25, 24 & 23
		Grand Total		73.799/29.865	

And generally lying in the direction from North-East to South-West, East to West, North-East to South-West and East to West as shown on the plan and demarcated at site.

By Order of Governor of Haryana,

G. L. RAMPAL,

Superintending Engineer,
J. L. N. Canal Circle No. I, Rohtak.

LABOUR DEPARTMENT

The 7th January, 1978

No. 19100-4Lab-77/594.—In pursuance of the provision of section 17 of the Industrial Disputes Act, 1947 (Act No. XIV of 1947), the Governor of Haryana is pleased to publish the following award of the Presiding Officer, Industrial Tribunal Faridabad, in respect of the dispute between the workman and the management of M/s. Kailash Textile Industries, 3/3, Mile Stone, Sohna, Road, Ballabgarh.

BEFORE SHRI NATHU RAM SHARMA, PRESIDING OFFICER, INDUSTRIAL TRIBUNAL,
HARYANA, FARIDABAD

Reference No. 91 of 1974

between

SHRI RAM KARAN, WORKMAN AND THE MANAGEMENT OF M/S. KAILASH TEXTILE INDUSTRIES,
3/3, MILE STONE, SOHNA ROAD, BALLABGARH

Present .—

Shri Bhim Singh Yadav, for the workman.

Shri K.P. Aggarwal, for the management.

AWARD

By order No. ID/27066, dated 19th July, 1974, the Governor of Haryana referred the following dispute between the management of M/s Kailash Textile Industries, 3/3 Milestone, Sohna Road, Ballabgarh and its workman Shri Ram Karan, to this Tribunal, for adjudication, in exercise of the powers conferred by clause (d) of sub-section (1) of section 10 of the Industrial Disputes Act, 1947 :—

Whether the termination of services of Shri Ram Karan was justified and in order ? If not, to what relief is he entitled ?

On receipt of the reference, notices were issued to the parties. The parties appeared and filed their pleadings. On the pleadings of the parties, the following issues were framed by my learned predecessor on 28th April, 1975 :—

- (1) Whether Shri Ram Karan, workman concerned, was appointed on probation for six months on 16th July, 1973 as alleged by the management ?
- (2) Whether the demand, the subject matter of the present reference, was first raised on the management and rejected by it before taking up the matter for conciliation ? If not, with what effect ?
- (3) Whether the termination of services of Shri Ram Karan was justified and in order ? If not, to what relief is he entitled ?

The case was set for the evidence of the parties. The management examined their Proprietor Shri Kailash Dang who stated that the workman was employed on 16th July, 1973,—vide Ex. M-1 and his services were terminated on 31st October, 1973. He was a probationer. He further stated that the workman had been employed previously also but had received his full and final settlement,—vide some voucher that he produced. He further stated that the settlement had been arrived at previously regarding all the workmen of their factory which had been signed by one Shri Nazir Mohmad on behalf of the workmen and by himself on behalf of the employer and all the disputes of all the workmen had been settled,—their settlement dated 21st June, 1973.

The case was then fixed for the evidence of the workman. The workman examined Shri Mohinder Nath Mehta, Clerk of the Labour Office, who deposed that, all settlements under section 12(3) are entered in their record and this settlement is not entered in their record, and every settlement under section 12(3) of the Industrial Disputes Act, has a reference to the date of the demand notice. The workman also examined another witness Shri Bansi Dher, Time-keeper of the management, as M.W. 2 who had brought attendance register. This witness stated that the name of the workman find place in their register in the months from July to October, 1978. His evidence discloses that the register brought by me were not properly maintained. Neither the pages were serially numbered and there were several blank pages also. The name of the workers employees also differed even during the same month. The workman also examined one Shri Ram Chander W.W. 3. I do not attach any importance to this witness as he was sitting in the court room while W.W. 2 was deposing. Then the workman examined himself. The parties produced documents also. As regards Exhibit M-5 the settlement, the record of the labour office showed that it was not entered therein, although the settlement purports to have been signed by the Conciliation Officer but it is a copy. The original has not been produced nor its certified copy. Moreover, I do not consider it to be relevant to the present dispute as it is dated 21st June, 1973, whereas the services of the workman concerned have been terminated on 31st October, 1973. Even according to the management the workman was employed the second time afresh on 16th July, 1973, therefore, it is unnecessary for me to comment on the settlement. I have seen Ex. M-1 the letter of appointment also. It is dated 16th July, 1973. It is also a copy, the original having been withheld by the management. There are no signatures on it but the name of the signatories are described thereon at proper place but it has not been admitted by the workman nor the signatures on the original have been put to the workman. Therefore, it is not proved.

The management have produced Ex. M-4, a copy of lease deed which is irrelevant for the decision of the dispute. The management has produced Ex. M-6 and M-7 the vouchers through which the workman is alleged to have been paid in full and final settlement prior to his second appointment on 16th July, 1973. One voucher is dated 2nd June, 1973, whereas the other is dated 10th July, 1973, the workman has denied his signatures. For the sake of arguments if it is taken that these vouchers bear the signatures of the workman then the maximum they proved is that the workman concerned was previously employed and had received all his previous dues on 10th July, 1973, in full and final settlement of all his claims.

Even according to the management, if I take that the workman was re-employed on 16th July, 1973, his services were terminated on 31st October, 1973. The workman had about 3½ months service at his credit. The management has taken the plea that the workman was a probationer simpliciter and they could terminate his services at their sweet will. The management have stated in their written statement that the workman was employed for six months on probation. Here I shall have to comment that the initial period of probation for six months had not expired when the services of the workman were terminated. 1964-I-LLJ-page 9 pronounced by the Hon'ble the Supreme Court of India binds me. Their Lordships have clearly held therein that the services of the probationer cannot be terminated prior to the expiry of initial period of probation of six months without any allegation against the workman of misconduct or any other grounds on which a confirmed employees' services can be terminated, although the reasoning behind that principle upheld by their Lordship seems to be that the initial period of probation of six months is the minimum contracted period of services as per terms of appointment, although reasoning have not been given in the above referred to citation. I, therefore, hold that the above referred two rulings apply in this case on all forces and therefore, the termination of services of Shri Ram Karan was neither justified nor in order. Now I give my finding issuewise.

Issue No. 1

When the workman had received his full and final settlement on 10th July, 1973, although he did not admit his signatures on the vouchers. The workman also could not prove that he was employed prior thereto continuously. The workman has produced some two attendance cards Ex. W-1 and W-2 but those are for April, 1973 and June, 1973, the workman could not prove continuity of service. I cannot hold on conjectures that he continuously remained in the employment of the management, nor record is available for the month of July, and the name of the workman does not find place in the attendance register of the management for June, 1973 and prior to 16th July, 1973. I, therefore, hold issue No. 1 in favour of the management holding that the workman was on probation for six months.

Issue No. 2

Now it is a well settled law that even if the demand was not first raised on the management and rejected by it, even then it becomes an industrial dispute. Moreover, the conciliation proceedings took place but according to recent pronouncement of law relating to this issue, this issue does not hit the workman. This issue proved or unproved has no effect.

Issue No. 3

As per my discussions herein above, I hold this issue against the management. I, therefore, give my award as follows :—

That the termination of services of Shri Ram Karan was neither justified nor in order. He is entitled to reinstatement with continuity of service and with full back wages, as he had remained unemployed during this period as per his un rebutted statement.

Dated 2nd December, 1977.

NATHU RAM SHARMA,
Presiding Officer,
Industrial Tribunal, Haryana,
Faridabad.

No. 1182, dated 2nd December, 1977

Forwarded (four copies, to the Secretary to Government, Haryana, Labour and Employment Departments, Chandigarh, as required under section 15 of the Industrial Disputes Act, 1947.

Dated 2nd December, 1977.

NATHU RAM SHARMA,
Presiding Officer,
Industrial Tribunal, Haryana,
Faridabad.

The 16th January, 1978

No. 376-4Lab-78/844.—In pursuance of the provision of section 17 of the Industrial Disputes Act, 1947 (Act No. XIV of 1947) the Governor of Haryana is pleased to publish the following award of the Presiding Officer, Industrial Tribunal, Faridabad, in respect of the dispute between the workmen and the management of M/s Panipat Co-operative Sugar Mills, Ltd., Panipat.

BEFORE SHRI NATHU RAM SHARMA, PRESIDING OFFICER, INDUSTRIAL TRIBUNAL,
HARYANA, FARIDABAD

Reference No. 116 of 1973

Between

THE WORKMEN AND THE MANAGEMENT OF M/S PANIPAT CO-OPERATIVE SUGAR MILLS LTD.,
PANIPAT

Present—

Shri Onkar Parshad, for the workmen.

Shri Surinder Kaushal, for the management.

AWARD

By order No. ID/KNL/13-F-73/31660, dated 4th July, 1973, the Governor of Haryana referred the following disputes between the management of M/s Panipat Co-operative Sugar Mills Ltd., Panipat and its workmen, to this Tribunal, for adjudication, in exercise of the powers conferred by clause (d) of sub-section (1) of section 10 of the Industrial Disputes Act, 1947 :—

- (1) Whether Sarvshri Gian Chand, Kimti Lal, Parma Nand and Des Raj, helpers, should be made permanent ? If so, with what details ?
- (2) Whether Shri Mauji Ram, Chowkidar, should be made permanent instead of Shri Munshi Ram ? If so, with what details ?
- (3) Whether Shri Kasturi Lal, S.B.A., should be designated as wireman and paid accordingly ? If so, with what details ?
- (4) Whether Shri Om Parkash should be made permanent ? If so, with what details ?
- (5) Whether Shri Krishan Lal, welder, should be allowed the grade of skilled 'A' since November, 1969 ? If so with what details ?
- (6) Whether Shri Ghisa Ram should be paid full wages for the period from 22nd February, 1972 to 13th March, 1972 and whether he should be allowed the grade of storeboy ? If so, with what details ?

On receipt of the order of reference, notices were issued to the parties. The parties appeared and filed their pleadings. On the pleadings of the parties the following issues were framed by my learned predecessor on 19th March, 1974.

- (1) Whether the demands covered by the present reference do not constitute an industrial dispute for reasons given in the preliminary objections in the written statement ? (on management)
- (2) Whether Sarvshri Gian Chand, Kimti Lal, Parma Nand and Des Raj, helpers, should be made permanent ? If so, with what details ?
- (3) Whether Shri Mauji Ram, Chowkidar, should be made permanent instead of Shri Munshi Ram ? If so, with what details ?

- (4) Whether Shri Kasturi Lal, S.B.A., should be designated as Wireman and paid accordingly ? If so, with what details ?
- (5) Whether Shri Om Parkash should be made permanent ? If so, with what details ?
- (6) Whether Shri Krishan Lal, Welder, should be allowed the grade of skilled 'A' since November, 1969 ? If so, with what details ?
- (7) Whether Shri Ghisa Ram should be paid full wages for the period from 22nd February, 1972 to 13th March, 1972 and whether he should be allowed the grade of storeboy ? If so, with what details ?

The case was fixed for the evidence of the parties. The management examined one Shri Gian Chand, General Secretary of Sugar Mills Mazdoor Sangh, who brought constitution of the union, minutes book, membership register and receipts of membership subscriptions. He deposed that the meeting of the general body workers was held on 2nd May, 1972 and resolution No. 40 was passed to raise the present dispute. 70 workmen had attended that meeting. He was authorised to give demand notice. 5 applications were obtained from the workers with regard to the demands. He deposed that the constitution was then in force and notice was issued for holding the meeting on 2nd May, 1972 and the notice was exhibited on the notice-board at the factory gate. 215 workers were members of the union in the year 1972. Agenda of the meeting was also exhibited on the notice-board of the factory gate. On this evidence my learned predecessor decided issue No. 1 in favour of the workmen,—vide his order dated 29th May, 1975 and fixed the case for determination of remaining issues. Then the workmen examined Sarvshri Krishan Kumar, Kimti Lal, Gian Chand, Kasturi Lal, Krishan Lal, Ghisa Ram, Des Raj, Jamana Dass, Om Parkash as W.W. 1 to W.W. 9 respectively and closed their case.

Then the case was fixed for the evidence of the management. The management examined Sarvshri Krishan Chand, their Electrical Engineer and Shri Hem Raj Sharma, Sugar Sales Incharge as M.W. 2 and M.W. 3 respectively. Then the management closed their case.

The case was then fixed for arguments. The parties argued their case and also filed their written arguments. I have gone through the evidence of the parties oral as well as documentary and have considered their arguments oral as well written. I, therefore, give my findings issuewise.

Issue No. 2

W.W. 1 stated that Sarvshri Kimti Lal, Gian Chand and Parma Nand, etc., had been working as helpers during season for the last 8/10 years and have not been made permanent, whereas Sarvshri Hardev Singh and Nariinder Kumar fresh recruits have been made permanent. In cross-examination he expressed his ignorance whether the said fresh recruits were semi-skilled or not. As well as regarding the grades of persons described in this issue. He admitted that the work-load in the mills during season is more than that in offseasons. W.W. 2 and W.W. 3 also corroborated W.W. 1 except that they described to period of their working to be more than described by W.W. 1. W.W. 7 Shri Des Raj also deposed in his favour stating that he was a permanent seasonal employee but not so during offseason and the management employed some other persons in his place during offseasons. W.W. 8 Shri Jamna Dass, Turner, had deposed that his work is such that his helper Shri Des Raj is required even during offseason and that fresh hands have been employed by the management during offseason for rendering help to him in preference to Shri Des Raj, old one. In cross-examination he stated that his job requires more work during offseason. M.W. 2 Shri Krishan Chand, Electrical Engineer, M.W. 2, have deposed that helpers are provided to the electricians even during off season, however, their number depends on the work-load. He has further stated that helpers provided during off season are freshly appointed and are not those who had been provided during offseason. He further deposed that 4 electricians are permanent and two helpers are permanent, their names are Bansil Lal and Madan Lal. He has further deposed that 4 helpers are required permanently for 4 electricians during season and offseason, i.e., throughout the year. He deposed that Madan Lal is in the service of the management for the last two years and Bansil Lal is in the service for the last 10/12 years. He further deposed that these helpers do not propose to come to work during offseasons perhaps on account of decrease in the strength of workmen. M.W. 3 Sugar Sales Incharge proved some documents that the helpers provided to the electricians during off seasons are those amongst apprentices who are under Apprentice Act. In arguments neither any provisions of Apprentice Act have been cited nor any justification have been made out that the helpers to the electricians were required to work during whole of the year cannot be made permanent on account of the Apprentice Act. In the arguments of the management, I do not find any plea of Apprentice Act. The only plea of the management is that the Board of Directors have not created vacancies and therefore, these helpers cannot be made permanent. M.W. 3 could not assign any reasons as to why the strength of all helpers irrespective of the department of which he had been attached has not been placed on the file by the management. It is in the admission of M.W. 2 that four helpers are required permanently for four electricians during season and off seasons throughout the year and that there are two permanent helpers named Shri Bansil Lal and Madan Lal and Shri Bansil Lal is in the service of the management for the last 10/12 years. When four helpers permanently are required throughout the year, there is justification to create four posts of helpers but two posts of helpers are permanent against which Shri Bansil Lal and Madan Lal are permanently employed.

I do not want to disturb the permanent helpers Shri Bansil Lal and Madan Lal. On the basis of the evidence of the workmen as well as of the management, I am of the view that four helpers are required permanently during the whole of the year. I, therefore, decide this issue as follows :—

That out of the four helpers named Sarvshri Gian Chand, Kimti Lal, Parma Nand and Des Raj, two of them who are seniors are entitled to be made permanent and should be made permanent with prospective effect.

Issue No. 3

There is not an iota of evidence on this issue. Moreover Shri Mauji Ram has not appeared in witness box. I, therefore, decide this issue against the workmen.

Issue No. 4

Shri Kasturi Lal appeared as M.W. 4 and withdrew from the reference and stated that he had no demand against the management. I, therefore, decide this issue against the workmen.

Issue No. 5

Shri Om Parkash, the concerned workman, appeared as W.W. 9. He stated that one post of permanent Waterman is lying vacant. He further stated that Sunder Lal, permanent Waterman, resigned in the year 1969 and his vacancy still lies unfilled. In cross-examination he admitted that the job of waterman requires attending the Boiler. He further admitted in cross-examination that Boiler does not operate during offseasons. M.W. 3 Shri Hem Raj has stated that waterman is always attached to Boiler and Boiler is at work only during crushing seasons.

In view of the admission of Shri Om Parkash W.W. 9 to the effect that the Waterman attends the Boiler only and that the boiler does not operate during off seasons, I cannot decide this issue in favour of the workman, hence decide it against him.

Issue No. 6

Shri Krishan Lal had appeared as W.W. 5 and stated in favour of getting his demand but thereafter the management produced Ex. M-1 signed by Shri Krishan Lal who withdrew his demand. Neither the workman nor the management argued on this issue. In view of withdrawal of demand by Shri Krishan Lal, I cannot decide this issue in his favour and therefore decide it against him.

Issue No. 7

Shri Ghisa Ram himself appeared as W.W. 6. He stated that he worked as a Store Boy prior to his services were terminated and he was paid off by the management and thereafter he again joined the services of the management, and he has been working as a Store Boy. M.W. 3 has stated that Shri Ghisa Ram had been finally paid off on 22nd February, 1972 and thereafter he was appointed in the stores as an un-skilled workman and there is no post like a store-boy. The workman has argued that he should be paid the difference of wages that he ought to have been paid as a Store Boy and that his retrenchment was illegal. But to me the question of retrenchment has not been referred. The management have argued that there is no vacant post of Store Boy, and as such they can not observe him as a Store Boy.

In view of the facts that Shri Ghisa Ram had been paid off on 22nd February, 1972 and thereafter accepted the job of un-skilled workman. I do not find it fit to decide this issue in his favour. As for as payment of full wages for the period from 22nd February, 1972 to 13th March, 1972 is concerned. I can not decide it until and unless I hold that his retrenchment was illegal and the legality or otherwise of the retrenchment is not before me to decide as that has not been referred to me. I, therefore, decide this issue against the workman and in the circumstances narrated above, I am not in a position to hold that Shri Ghisa Ram be paid full wages for the period from 22nd February, 1972 to 13th March, 1972. I, therefore, give my award as follows :—

Dispute No. 1

That two workmen who are seniors may be made permanent helpers out of the four described in dispute No. 1. They should be made permanent from the date of the Gazette in which this award is published i.e. with prospective effect.

Dispute No. 2

Shri Mauji Ram Chowkidar should not be made permanent instead of Shri Munshi Ram. No details are necessary.

Dispute No. 3

Shri Kasturi Lal S.B.A. should not be designated as Wireman. He himself having withdrawn his demand.

Dispute No. 4

That Shri Om Parkash should not be made permanent. No details are necessary.

Dispute No. 5

That Shri Krishan Lal Welder should not be allowed the grades of skilled 'A' as he himself has withdrawn his demand vide Ex. M-1.

Dispute No. 6

That in view of my discussions on issue No. 7, Shri Ghisa Ram should not be paid full wages for the period from 22nd February, 1972 to 13th March, 1972, nor he should be allowed the grade of store-boy. No more details are necessary.

NATHU RAM SHARMA,

Dated the 31st December, 1977.

Presiding Officer,
Industrial Tribunal, Haryana,
Faridabad.

No. 7, dated 2nd January, 1978

Forwarded (four copies) to the Secretary to Government, Haryana, Labour and Employment Departments, Chandigarh, as under section 15 of the Industrial Disputes Act, 1947.

NATHU RAM SHARMA,

Dated the 2nd January, 1978.

Presiding Officer,
Industrial Tribunal, Haryana,
Faridabad.

The 30th/31st January, 1978

No. 821-4Lab-78/1135.—In pursuance of the provisions of section 17 of the Industrial Disputes Act, 1947 (Act No. XIV of 1947), the Governor of Haryana is pleased to publish the following award of the Presiding Officer, Industrial Tribunal, Faridabad, in respect of the dispute between the workmen and the management of M/s. Olympus (India) Pvt. Ltd., 12/3, Mathura Road, Faridabad.

BEFORE SHRI NATHU RAM SHARMA, PRESIDING OFFICER, INDUSTRIAL TRIBUNAL,
HARYANA, FARIDABAD

Reference No. 54 of 1975

between

THE WORKMAN AND THE MANAGEMENT OF M/S OLYMPUS (INDIA), PRIVATE LIMITED, 12/3, MATHURA
ROAD, FARIDABAD

Present:—

Shri R. N. Roy for the workmen.

Shri K. P. Aggarwal for the management.

AWARD

By order No. 1D/FD/75/14169, dated 10th March, 1975, the Governor of Haryana, referred the following dispute between the management of M/s Olympus (India), Private Limited, 12/3, Mathura Road, Faridabad and its workmen, to this Tribunal, for adjudication, in exercise of the powers conferred by clause (d) of sub-section (1) of section 10 of the Industrial Disputes Act, 1947 :—

Whether the grades and scales of pay of different categories of workmen should be revised? If so, with what details and from which date?

On receipt of the order of reference, notices were issued to the parties. The parties appeared and filed their pleadings. On the pleadings of the parties, the following issues were framed by my learned predecessor on 22nd September, 1975 :—

- (1) Whether a notice of demand, the subject-matter of the dispute, was first raised by the workmen on the management and rejected by the latter before the matter was taken before the Conciliation Officer? If not, to what effect?
- (2) Whether the dispute as referred to the Tribunal have become infructuous?
- (3) Whether the Vice-President of Olympus Employees Union is legally entitled to represent the workmen before the Tribunal?

Then the case was set for the admission and denial of documents which was done. Then the case was fixed for evidence of the parties. The workmen examined one Shri Gajinder Singh workman of the management as W.W. 1 and the workman closed his case. Then the case was fixed for the rebuttal evidence of the management. The management examined Sarvshri N. D. Kapoor, Assistant of the office of the Labour Commissioner, Haryana, Chandigarh and Shri Chandi Parshad Painter in the management factory and the case was fixed for the remaining evidence of the management. Then the management examined Shri K.L. Sharma, Organising Secretary of Haryana INTUC and the management closed their case. Then the case was fixed for arguments. In the mean time, the management applied for amendment of the written statement which was allowed subject to payment of costs of Rs. 100 only. Then the following issues were again framed on 23rd May, 1977 :—

- (4) Whether Shri R. N. Roy is not the Vice-President of M/s Olympus Employees Union and as such he is not competent to represent the workmen in this case?
- (5) Whether the reference is bad in law as the industry has closed and is no more in existence?

The case was then set for the evidence of the management. The management then examined Shri Shamsher Singh, their Works Manager as M.W. 4 and closed their case on the issues framed on 23rd May, 1977. Then the case was fixed for the evidence of the workman. The workmen examined Shri Raj Mal, General-Secretary of Olympus India Employees Union as W.W. 2 and closed their case. The case was then fixed for arguments on the abovesaid two issues framed on 23rd May, 1977, which were treated preliminary. The learned representative for the parties addressed arguments. Arguments were heard.

M.W. 1 Shri Gajinder Singh workman stated that Shri R.N. Roy was the Vice-President of the Union who was elected in a meeting of the union. He proved letter of authority Exhibit W. 1. In cross-examination he could not tell as to what was the name of the union in the year 1973 or in the end of 1972. He could neither affirmed nor deny the suggestion that at that time its name was General Engineering Mazdoor Union. He denied the suggestion that at that time Shri Amar Singh Sharma was the President. He admitted it correct that the demand was raised on the management by the Union through Shri Amar Singh Sharma vide notice Exhibit M.1. He also admitted his signatures on a settlement Exhibit M2. He admitted that the settlement was also signed by Shri Amar Singh Sharma and some office bearer of the Union and by an officer of the management. He further denied that the workman ceased to be member of General Engineering Mazdoor Union and they formed another Union by the name of Olympus Employees Union under leadership of Shri K.L. Sharma. He admitted that Shri Raghubir Singh was the President of Olympus Employees Union and Shri M.S. Kandoo was the first Vice-President of the Union and he was the first General Secretary. He further admitted that General Engineering Mazdoor Union ceased to exist with the formation of Olympus Employees Union. He said that the meeting was held in September, 1974 in the open ground in front of M/s. K.G. Khosla, about 60 members were present and Shri R. N. Roy was elected its President and the information was sent to Registrar. He could not produce any copy of that letter. He produced the minute book and took it back. He stated that the minutes do not bear the signatures of Shri R.N. Roy. He further stated that the demand attached with the reference dated 14th November, 1974 was signed by him.

M. W. 1 Shri N. D. Kapoor, Assistant in the office of the Labour Commissioner, Haryana, Chandigarh, stated that according to constitution of the union, only one Vice-President could be elected. The union had supplied the names of the the President Shri Raghubir Singh, Vice-President Shri M.S. Kandoo and General Secretary Shri Gajinder Singh at the time applying for registration and that the union did not apply for any change in the constitution or in the list of office bearers. He further stated that the union had sent an annual return relating to the office bearers elected during the year 1974 on different dates. According to the return Shri M.S. Kandoo was elected Vice-President on 21st July, 1974 and Shri R.N. Roy on 1st September, 1974. He produced copy of the constitution, list of office bearers at the initial stage as well as at the subsequent stage for the period ending 31st December, 1974 which was received in their office on 4th July, 1975 vide No. 17465. The letter dated 29th June, 1974. He tendered in evidence the copy of the letter received in his office on 4th July, 1975. He provided copies

Exhibit M.1. to M.4. In cross-examination, he stated that the list of office bearers retired during the year 1974 includes the name of Shri M.S. Kandoo, Vice-President on 21st July, 1974 and 1st September, 1974. He further stated in re-examination that no information was received in their office relating to the retirement of officers earlier than 4th July, 1975. MW-2 Shri Chandi Parshad a Painter of the management stated that Shri Raghbir Singh was the President, Shri M.S. Kandoo, Vice-President, Shri Gajinder Singh, General Secretary and he himself Joint Secretary. He produced receipts of subscription paid by him to the union Exhibit M-5 and M-6. He further stated that he had been attending every meeting of the union and that no election of office bearer took place after November, 1973 till 21st April, 1976. He stated that there was no change at all in the office bearers. In cross-examination he stated that he did not pay subscription after May, 1974. He admitted that he did not attend any meeting of the union after May, 1974. Shri K.L. Sharma M.W. 3, the Organising Secretary, Haryana, INTUC who stated that previously there was Genral Engineering Mazdoor Union president by Shri Amar Singh Sharma and that the Olympus Employees Union was formed under the auspicious of INTUC. He was present in the general body meeting held in the last month of 1973. He affirmed that Raghbir Singh was President, Shri M.S. Kandoo, Vice-President, Shri Gajinder Singh General Secretary. He further stated that Shri R.N. Roy was never present in any meeting. The union had applied for affiliation to INTUC. He further stated that he remained associated with the union till 1st week of 1974 and thereafter he left for East Germany and by that time there was no change in office bearers. In cross-examination he denied a suggestion that he never attended the meeting and signed the minutes of Olympus Employees Union. He was shown the minutes book and then he stated that this was fictitious document and therefore it did not bear his signatures. M.W. 4 Shri Shamsher Singh Works Manager stated that the Factory was not functioning at Faridabad nor in Haryana. He had seen the registration papers of the union who stated that Sarvshri Raghbir Singh was President, M.S. Kandoo Vice-President and Gajinder Singh General Secretary and that in the constitution there was provision of one Vice-President only and the union never gave any intimation to him regarding change office bearers. He further stated that the constitution provided that only the employees of the factory should be enrolled as members of the union and no outsider could be a member of the union. In cross-examination he named certain office bearers. The management was manufacturing in Delhi. He further stated in cross-examination that he was Works Manager in the factory at Delhi since 1st March, 1975. The factory started functioning in Delhi on 1st March, 1975 and the factory had been closed at Faridabad on 31st July, 1976. He stated that the union had raised demands in the year 1973 and there were conciliation proceedings. W.W.2 Shri Raj Mal General Secretary of Olympus (India) Employees Union brought the minutes book and stated that the meeting was held on 1st September, 1974. There were about 56/57 persons present. It was the General body meeting and Shri R.N. Roy was elected Vice-President in place of Shri M.S. Kandoo. This meeting was called to change the election held previously. All the members had consented hence election was held for the second time. Persons present had signed the minutes book. Shri R.N. Roy was not present and he had not signed. One Shri Jai Dev member of the Working Committee was also not present. Shri M.S. Kandoo was elected Organising Secretary. He produced a copy of the minute Exhibit W-2/1. He stated formerly Shri Amar Singh, a INTUC man had connection with this union. In cross-examination he stated that there were 150 workmen in the factory and 11 were members of the union. He further stated that after the formation of the union a change in the name of the office bearers had taken place only once on 1st September, 1974. The only change was that Shri R.N. Roy was elected Vice-President and Shri M.S. Kandoo was elected Organising Secretary. He however again stated that there might have occurred another change of one or two members. He could not say whether the change was intimated to the Registrar of Trade Unions. He affirmed no other change. In cross-examination he admitted that in that meeting it did not happen that some of the office bearer retired and new one was taken. He could not identify several initials in that register. He could not say where Dhupender Singh had signed. He further admitted in cross-examination that at 1/2 places in that register, minutes were not recorded, although persons had signed and there were some blank sheets and pages were not numbered. On some pages signatures of the persons appeared but proceedings were not written. At other places in the register even dates and time are not written. It is so about 5/6 meetings. He denied a suggestion that no meeting had taken place on 1st September, 1974, Shri R.N. Roy was not elected and false record has been manipulated to support the reference

I have gone through all the evidence of the parties, oral as well as documentary. I have gone through the constitution also. I give my findings on issues Nos 1 and 2 framed on 23rd May, 1977.

Issue No. 1.—Exhibit M-2 coming from the office of the Labour Commissioner, Haryana, Chandigarh, shows a list of office bearer retired in the year 1974. It shows the retirement of the President Shri Raghbir Singh on 21st July, 1974, the Vice-President Shri M.S. Kandoo on 21st July, 1974 and 1st September, 1974, the General Secretary, the Joint Secretary, the Organising Secretary on 21st July, 1974. The Organising Secretary Shri Inder Singh, Cashier Shri K.N. Kandoo, member E.C. Shri Sukhraj on 1st September, 1974 and auditor Shri Jashmer Singh on 21st July, 1974. It is strange that Vice-President, Shri M.S. Kandoo retired two times on 21st July, 1974 and 1st September, 1974. If he retired on 1st September, 1974 also, he could not remain any office bearer thereafter because the union itself states that no election took place after 1st September, 1974. Then a list of office bearers has been given for the year 1974. In it two Vice-Presidents has been shown, one Shri M.S. Kandoo and the other Shri R.N. Roy, although their dates of elections differ. But how there could be two Vice-President when the constitution provides for one Vice-President only. In this connection the copy of the minute book is of much material. The union supplied the list of persons retired and the officers elected in the year 1974. In the minute book copy whereof is Exhibit W-2/1, there is no mention of retirement of any office bearer. The minute book reads that there were some mistakes in the previous election, Shri R.N. Roy was elected office bearer and he was representing them and therefore this meeting of 1st September, 1974 is to change the previous election and to hold election for the second time. In the minutes of 1st September, 1974, Shri M.S. Kandoo has been shown as Organising Secretary whereas in the list sent by the union to the Labour Commissioner, Shri M.S. Kandoo has been shown

as Vice-President. In the minutes book Surjeet Singh has been shown as member of the Executive Committee, whereas his name does not find place in the said list sent by the union to the Labour Commissioner. In the minute book 10 persons are shown as members of the Executive Committee but in the list sent by the union to the Labour Commissioner, 11 persons appeared as members of the Executive Committee. Either of the two documents is wrong. Copy of minute book in respect of the meeting held on 21st July, 1974, has not been produced by the workmen. In Exhibit M-3 copy of declaration form sent by the union to the Labour Commissioner, Shri M.S. Kandoo has been shown as Vice-President and the name of Shri R.N. Roy nowhere appeared. If the Office-bearers have to make a solemn declaration and if that solemn declaration has to be sent to the Labour Commissioner, I fail to understand why Shri R.N. Roy, claiming to be Vice-President of the union, has not sent any such solemn declaration, as has been done by Shri Raghbir Singh, M.S. Kandoo, Gajinder Singh, Chandi Parshad, K.N. Kandoo, Jashmer Singh. Gajinder Singh appeared as W.W. 1. He did not describe himself as the General Secretary of the union. Although in cross examination he stated that he was the first General Secretary whereas in the meeting on 1st September, 1974, he has again been shown to have been elected as General Secretary. The minute book is neither page numbered and at several places there were blank sheets between the records of proceedings, at several places person had signed but there were no proceedings recorded. At several places in the minute book even date and time of the meeting are not recorded and that was found so in respect of 5/6 meetings. The minute book does not inspire reliability. It is not maintained properly, not to speak of correctly.

The evidence of W.W. 1 Shri Gajinder Singh does not inspire confidence. Firstly when he appeared as W.W. 1, he did not describe himself as the General Secretary whereas according to Exhibit W-2/1 he is said to be the General Secretary. Moreover he has shown much ignorance regarding previous union styled as General Engineering Mazdoor Union because he himself has stated that the said previous union ceased to exist with the formation of Olympus Employees Union. Even he could not give the date of change of office-bearer of the union. He has stated that information in respect of change in office bearer was sent to the Registrar but he could not produce any copy of such letter when he has been described to be the General Secretary of the union, —vide Exhibit W-2/1. In cross-examination when he stated that he could not tell the name and style of union at that time, nor he could affirm or deny the suggestion that it was styled as General Engineering Mazdoor Union. He further stated that the General Engineering Mazdoor Union ceased to exist with the formation of Olympus Employees Union. Why he did not give the name of that union named as General Engineering Mazdoor Union in the beginning of his cross-examination when clear suggestions were put to him. His statement does not seem to me credible. In Exhibit W-2/1 Shri Gajinder Singh has been described as General Secretary and thereafter no meeting of the general body has taken place but W.W. 2 Shri Raj Mal has described himself as General Secretary, of the Olympus (India) Employees Union. His election as General Secretary has not been proved by the workmen, nor minutes of any meeting in which he is alleged to have been elected as General Secretary has been produced. W.W. 2 stated that meeting on 1st September, 1974 was held to change the election held previously. In the constitution there is no such provision to change the election held previously by another meeting. Previous election meeting was held on 21st July, 1974, the meeting held on 1st September, 1974, could be valid when either some office-bearers might have resigned or might have been removed. There is nothing on record to prove resignation of Shri M.S. Kandoo nor his removal is proved. No resignation of Shri M.S. Kandoo has been produced. Moreover W.W. 2 admits that there were 150 workmen in the factory and all of them were members of the union but in the meeting dated 1st September, 1974 about 52 persons are alleged to be present. The constitution provides that election could be held in general body meeting and general body meeting ordinarily shall be held once in a year but its emergency meeting can be held after giving 10 days' prior information and only when at least 35 per cent of members of the union applied for it. There is nothing on the record to prove that it was an emergency general body meeting, nor the workmen have stated so. No requisition by 35 persons members of the union is proved nor 10 days' prior information is proved. No meeting without prior information or notice to its members can be said to be valid meeting and ordinarily general body meeting takes place after a year. If the meeting held on 21st July, 1974, in which election had taken place, then the meeting held on 1st September, 1974, is not an ordinary general body meeting. Then it could be emergency general body meeting, requirements whereof have not been complied with, nor compliance of such requirements have been proved. The meeting on 1st September, 1974, therefore, is no meeting according to the constitution.

It is significant to note that the union did not inform the Labour Commissioner, Haryana, regarding the changes resulting by the alleged election upto 4th July, 1975, i.e. the union did not inform the said office for about 10 months. The reasons of not informing the office of the Labour Commissioner for 10 months regarding the election dated 1st September, 1974 is not understood. The demand notice is dated 14th November, 1974 and the reference is dated 10th March, 1975. It is unintelligible as to why the resulting changes of the election of 1st September, 1974, were not communicated to the Labour Commissioner till even the date of reference. Even the Labour Commissioner was informed, —vide the return filed by the union reaching the Labour Commissioner on 4th July, 1975. That return shows that Shri M.S. Kandoo retired on 1st September, 1974 also. The question arises that on 1st September, 1974, he was elected Organising Secretary. How could he then retire on 1st September, 1974 and if he retired on 1st September, 1974, prior to the election how could he retire on 21st July, 1974. The documentary evidence of the workmen is contradictory. The statement of the witnesses for the workmen are not corroborated as per the documentary evidence produced by the office of the Labour Commissioner, Haryana. M.W. 2, stated that no change in the office bearer of the union took place till the day he deposed before this Tribunal, i.e. upto 21st April, 1976. Although he was a member of the union but his statement does not bear any credence, as he did not pay any subscription to the union after May, 1974 and he did not attend any meeting of the union after May, 1974 but he statement of M.W. 3 Shri K.L. Sharma, Organising Secretary, Haryana INTUC cannot be brushed aside. He remained associated with this union till first week of 1974 and left for East Germany there after. He is an important officeholder. He has affirmed the election of 21st July, 1974 and stated that no change in the office of the Vice-President took place till first week of September, 1974. He has further stated that he has been attending the meetings of the union. He has further stated that the minute book shown to him and produced before this Tribunal for inspection and return, was a fictitious document. Here it is noteworthy to mention that a labour leader has deposed against the case built up by the workmen in this case. Then M.W. 4 Works Manager of the factory has also deposed that the management was also not informed regarding the change of office bearer taking place as a result of election on 1st September, 1974. He has named Shri Raghbir Singh as President, Shri M.S. Kandoo as Vice-President, which seems to be correct as per the election dated 21st July, 1974. He has further deposed that the constitution of the union provides that only the employees of the factory could be enrolled as members of the union which fact is corroborated by the constitution. Similarly he has stated that constitution provides for one Vice-President only, which fact is also corroborated by the provision of constitution. As per Exhibit M-2 the statement supplied by the union to the office of the Labour Commissioner, Haryana, two Vice-Presidents have been shown. Shri M.S. Kandoo date of election is 21st July, 1974 and Shri R.N. Roy the date of election is 1st September, 1974, and the same document Exhibit M-2 shows the date of retirement of Vice-President Shri M.S. Kandoo 21st July, 1974 and 1st September, 1974. If Shri M.S. Kandoo retired on 21st July, 1974, the later part of Exhibit M-2 showing officers elected could not show Shri M.S. Kandoo as Vice-President. Under all these circumstances and considering all these contradictions in the evidence of the workmen, I am not in a position to hold that their documents and statements to a large extent are reliable.

The minute book is also not reliable. At one or two places there were signatures of persons but minutes were not recorded and there were several blank sheets, neither pages were numbered. Numbering of pages might not matter, but when this circumstance is viewed from several other, irregularities and improprieties as found in this register, this circumstance also matters. At several places there were no proceedings written but there were signatures of persons and at several places date and time were not written regarding 5 or 6 meetings. In these circumstances how such documents can be relied upon, when the matter is in controversy and hotly contested by the parties. A glance of the proceedings of the meetings alleged to be held on 1st September, 1974 also reflects great doubt on its veracity. There are column in which persons have signed. Then there are other columns in which

the offices, the names of the candidates, the names of proposers and the names of seconders are there. I have also discussed this document, copy where of is Exhibit W-2/A, heretofore and have noted the contradictions and inconsistencies at that place. To me the record of these proceedings does not seem authentic and reliable. It is significant that Shri M. S. Kandoo was not produced by the workmen.

Viewing from all aspects of the matter and considering the evidence, I, therefore, hold that Shri R. N. Roy was not constitutionally elected and therefore Shri R. N. Roy is not the constitutionally elected, Vice-President of Olympus Employees Union. The question then remains whether he is competent or not to represent the workmen in this case. Here I would mention that there is a letter of authority in favour of Shri R. N. Roy executed by about 56 workmen, which is Exhibit W 1. In this letter of authority Shri R. N. Roy has not been described as Vice-President by the workmen, although Shri R. N. Roy while accepting it, and signing under the word "accepted" has described himself as Vice-President of the said union. I have already held that Shri R. N. Roy is not the constitutionally elected Vice-President of the said union. If it is so, the question arises whether he is competent or not to represent the workmen by virtue of the said letter of authority while he is not the constitutionally elected Vice-President of the said union. Here section 36 of the Industrial Disputes Act is important. Clause (a) of Sub-section (1) of section 36 reads that a workman, party to the dispute shall be entitled to be represented by any member of the executive or other office bearer of the Registered Trade Union of which he is a member. The workmen are members of the Olympus Employees Union which is a Registered Trade Union. They can be represented by any members of the executive or other office bearers. Then, as I have held that Shri R. N. Roy is not the constitutionally elected Vice-President the workmen are entitled to be represented by either any member of the executive or other office bearer. The case of the workmen is that Shri R. N. Roy is the Vice-President of the union which, I have answered in the negative. It is not the case of the workman that Shri R. N. Roy is member of the executive of the said union or any other office bearer than the Vice-President. Nor there is any averment or plea that Shri R. N. Roy is the member of the executive or is any other office bearer than Vice-President. Therefore, section 36 does not help the workman on this question, rather goes against them. I, therefore, decide this issue in favour of the management.

Issue No. 5.—On this issue there is a statement of M. W. 4 Shri Shamsher Singh Works Manager of the respondent management. He has stated that this factory was situated formerly at Faridabad but it is not functioning at Faridabad since and after 31st July, 1976. It was closed at Faridabad on 31st July, 1976, although it had started functioning at Delhi since 1st March, 1975. There is no rebuttal of this fact that this factory at Faridabad was closed on and from 31st July, 1976 and it had started functioning at Delhi since 1st March, 1975. It is therefore, proved that the industry has been closed at Faridabad and is functioning at Delhi, although the factory is in existence but at Delhi, when this fact is established and proved, the question of my jurisdiction arises. My jurisdiction does not extend to disputes of workmen and management of a factory which exists at Delhi and does not exist in Haryana. The workmen have nowhere stated that the factory exist anywhere in Haryana. When my jurisdiction does not extend to the factory, I can not proceed further with the reference. When the reference was made, the factory was in existence at Faridabad but since and after 31st July, 1976, it has been closed at Faridabad and has ceased to exist at Faridabad or in Haryana. Therefore, I have no jurisdiction to decide the dispute. Although I had jurisdiction to decide the dispute when the dispute was referred to me but my jurisdiction came to an end since and after 31st July, 1976.

The learned representative for the workmen argued that this Tribunal can decide the dispute when it had jurisdiction at the time of reference and that Haryana Government was competent at that time to refer the dispute to this Tribunal. It is correct that at that time, the Haryana Government was competent to refer this dispute to this Tribunal, as the factory was in existence at Faridabad at that time. The learned representative for the management argued that the dispute relates to grades and scales of pay of different categories of workmen which have a prospective effect and not retrospective effect. Grades and scales of pay cannot be fixed with retrospective effect. I agree that grades and scales of pay of different categories of workmen are and can be fixed with prospective effect and not with retrospective effect. The learned representative for the management has cited LLJ-1971-II-Vol-Page 528, a ruling by the Hon'ble the Supreme Court of India. In that ruling their Lordships have held that if the dispute relates to the past working of the industry and for the benefits which accrued to them in the past, it can hardly be said that adjudication is without any purpose. If the workman asked for better service conditions like revision of grades and scales, dearness allowance, medical and other facilities, gratuity, etc. it would be useless for the Tribunal to complete the adjudication and make an award. The instant dispute relates to revision of grades and scales of pay. Hence in view of the above-cited ruling of the Hon'ble the Supreme Court of India, it is useless for me to complete the adjudication and make an award.

1963-II-LLJ-403 has also been cited. I have considered this ruling. This ruling does not apply to the facts of this case. I, therefore, hold that the reference was not bad in law as at that time the industry was at Faridabad but since it has been closed at Faridabad and has started functioning at Delhi, therefore, my jurisdiction does not extend to the factory at Delhi and therefore, I have no jurisdiction to decide this dispute between the factory and its workmen at Delhi, as the dispute relates to the revision of grades and scales of pay. For my jurisdictional purposes, the factory is no more in existence in Haryana. Therefore, this issue No. 5 is decided accordingly. I, therefore, answer this order of reference according to my findings or decisions on the above-said issues Nos. 4 and 5 that I have no jurisdiction to complete the adjudication and to make an award on the dispute under reference. Therefore decision on other issues is quite useless.

Dated the 22nd December, 1977.

NATHU RAM SHARMA,

Presiding Officer,
Industrial Tribunal, Haryana,
Faridabad.

No. 54, dated 9th January, 1978.

Forwarded (four copies) to the Secretary to Government, Haryana, Labour and Employment Departments, Chandigarh, as required under section 15 of the Industrial Disputes Act, 1947.

Dated the 9th January, 1978.

NATHU RAM SHARMA,

Presiding Officer,
Industrial Tribunal, Haryana,
Faridabad.